

**Taxation and Revenue Department
Joseph M. Montoya Building
1100 South St. Francis Drive
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**3.25 NMAC, Parts 2 and 3
REGULATIONS PERTAINING TO THE
WORKERS' COMPENSATION and UNINSURED EMPLOYERS FEES
SECTION 52-5-19 NMSA 1978**

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REGULATIONS PERTAINING TO THE
WORKERS' COMPENSATION FEE
SECTION 52-5-19 NMSA 1978**

52-5-19. FEE FOR FUNDING ADMINISTRATION--WORKERS' COMPENSATION ADMINISTRATION FUND CREATED. --

A. Beginning with the calendar quarter ending September 30, 2004 and for each calendar quarter thereafter, there is assessed against each employer who is required or elects to be covered by the Workers' Compensation Act a fee equal to two dollars thirty cents (\$2.30) multiplied by the number of employees covered by the Workers' Compensation Act that the employer has on the last working day of each quarter. At the same time, there is assessed against each employee covered by the Workers' Compensation Act on the last working day of each quarter a fee of two dollars (\$2.00), which shall be deducted from the wages of the employee by the employer and remitted along with the fee assessed on the employer. The fees shall be remitted by the last day of the month following the end of the quarter for which they are due.

B. The taxation and revenue department may deduct from the gross fees collected an amount not to exceed five percent of the gross fees collected to reimburse the department for costs of administration.

C. The taxation and revenue department shall pay over the net fees collected to the state treasurer to be deposited by him in a fund hereby created and to be known as the "workers' compensation administration fund". Expenditures shall be made from this fund on vouchers signed by the director for the necessary expenses of the workers' compensation administration; provided that an amount equal to thirty cents (\$.30) per employee of the fee assessed against an employer shall be distributed from the workers' compensation administration fund to the uninsured employers' fund.

D. The workers' compensation fee authorized in this section shall be administered and enforced by the taxation and revenue department under the provisions of the Tax Administration Act.

(Laws 2004, Chapter 36, Section 2)

3.25.2.7 - DEFINITIONS: “ASSESSMENT” AND FEE ARE ADMINISTERED AS TAXES

A. For the period July 1, 1987 through May 19, 1992, and for purposes of the application of the provisions of the Tax Administration Act to the administration and enforcement of the workers' compensation assessments required by Section 52-5-19 NMSA 1978, the noun “assessment” as used in Section 52-5-19 NMSA 1978 prior to May 20, 1992, means “tax”, in accordance with Subsection C of Section 7-1-2 NMSA 1978.

B. On and after May 20, 1992, for the purposes of the application of the Tax Administration Act to the administration and enforcement of the workers' compensation fees required by Section 52-5-19 NMSA 1978, the fee shall be considered a tax.

C. This version of 3.25.2.7 NMAC is retroactively applicable on May 20, 1992.
[10/3/88, 10/19/92, 4/15/97; 3.25.2.7 NMAC – Rn & A, 3 NMAC 25.2.7, 11/15/01]

3.25.2.8 - WHEN ASSESSMENT EFFECTIVE

A. Pursuant to the provisions of Section 7-1-17 NMSA 1978, an assessment of the fee imposed by Section 52-5-19 NMSA 1978 shall be effective when the department receives a return from the taxpayer showing a liability for the workers' compensation fee, when the department issues a “notice of assessment of taxes” pursuant to Subsection B of Section 7-1-17 NMSA 1978 or when an effective jeopardy assessment is made as provided in Section 7-1-59 NMSA 1978.

B. This version of Section 3.25.2.8 NMAC is retroactively applicable on May 20, 1992.
[10/3/88, 10/19/92, 4/15/97; 3.25.2.8 NMAC – Rn & A, 3 NMAC 25.2.8, 11/15/01]

3.25.3.8 - PENALTY

A. If any employer who is required by Section 52-5-19 NMSA 1978 to collect the fee imposed by Section 52-5-19 NMSA 1978 on employees from an employee of that employer and pay over that amount to the department fails to do so, the department may assess against the employer the penalty provided by Section 7-1-71 NMSA 1978 in addition to other penalties provided by law. In this instance, the penalty under Section 7-1-71 NMSA 1978 will be assessed, with respect to each employee of the employer, in an amount equal to the fee imposed by Section 52-5-19 NMSA 1978 on employees that the employer failed to withhold and pay over from the employee's wages.

B. This version of Section 3.25.3.8 NMAC is retroactively applicable on May 20, 1992.
[10/3/88, 10/19/92, 4/15/97; 3.25.3.8 NMAC – Rn & A, 3 NMAC 25.3.8, 11/15/01]